

(e) *Definitions*—(1) *In general.* The definitions provided in this paragraph (e) apply for purposes of section 274(d), § 1.274-5T, and this section.

(2) *Employer and employee.* The terms *employer* and *employee* include the following:

(i) A sole proprietor shall be treated as both an employer and employee,

(ii) A partnership shall be treated as an employer of its partners, and

(iii) A partner shall be treated as an employee of the partnership.

(3) *Automobile.* The term *automobile* has the same meaning as prescribed in § 1.61-2T(d)(1)(ii).

(4) *Vehicle.* The term *vehicle* has the same meaning as prescribed in § 1.61-2T(e)(2).

(5) *Personal use.* *Personal use* by an employee of an employer-provided vehicle includes use in any trade or business other than the trade or business of being the employee of the employer providing the vehicle.

(f) *Effective date.* This section is effective for taxable years beginning after December 31, 1985.

[T.D. 8061, 50 FR 46037, Nov. 6, 1985; as amended by T.D. 8063, 50 FR 52312, Dec. 23, 1985]

§ 1.274-7 Treatment of certain expenditures with respect to entertainment-type facilities.

If deductions are disallowed under § 1.274-2 with respect to any portion of a facility, such portion shall be treated as an asset which is used for personal, living, and family purposes (and not as an asset used in a trade or business). Thus, the basis of such a facility will be adjusted for purposes of computing depreciation deductions and determining gain or loss on the sale of such facility in the same manner as other property (for example, a residence) which is regarded as used partly for business and partly for personal purposes.

[T.D. 6659, 28 FR 6507, June 25, 1963]

§ 1.274-8 Effective date.

Except as provided in § 1.274-2 (a) and (e), §§ 1.274-1 through 1.274-7 apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

[T.D. 8051, 50 FR 36576, Sept. 9, 1985]

§ 1.274(d)-1 Substantiation requirements.

(a) *Substantiation by reimbursement arrangements or per diem, mileage, and other traveling allowances*—(1) *In general.* The Commissioner may, in his discretion, prescribe rules in pronouncements of general applicability under which allowances for expenses described in paragraph (a)(2) of this section will, if in accordance with reasonable business practice, be regarded as equivalent to substantiation by adequate records or other sufficient evidence for purposes of § 1.274-5T(c) of the amount of such expenses and as satisfying, with respect to the amount of such expenses, the requirements of an adequate accounting to the employer for purposes of § 1.274-5T(f)(4). If the total allowance received exceeds the deductible expenses paid or incurred by the employee, such excess must be reported as income on the employee's return. See § 1.274-5T(j) relating to the substantiation of meal expenses while traveling away from home.

(2) *Allowances for expenses described.* An allowance for expenses is described in this paragraph (a)(2) if it is a—

(i) Reimbursement arrangement covering ordinary and necessary expenses of traveling away from home (exclusive of transportation expenses to and from destination); or

(ii) Per diem allowance providing for ordinary and necessary expenses of traveling away from home (exclusive of transportation costs to and from destination); or

(iii) Mileage allowance providing for ordinary and necessary expenses of local travel and transportation while traveling away from home.

(3) *Limitation.* A mileage allowance described in paragraph (a)(2)(iii) of this section is available only to the owner of a vehicle.

(b) *Effective date.* This section applies to allowances described in paragraph (a)(2) of this section for expenses paid or incurred on or before December 31, 1997. For allowances for expenses paid or incurred after December 31, 1997, see § 1.274(d)-1T.

[T.D. 8451, 57 FR 57669, Dec. 7, 1992, as amended by T.D. 8784, 63 FR 52601, Oct. 1, 1998]